

REMARKS

Claims 92-108 are pending in this application.

Claims 92-108 stand rejected under 35 U.S.C. § 101 as claiming the same invention as that of claims 1-15, 17 and 19 of Application Serial No. 09/991,982. This rejection is respectfully traversed.

The claimed invention relates to a method for etching an oxide layer of a substrate. As such, independent claim 92 recites a "method for etching an oxide layer of a substrate" by *inter alia* "placing a substrate having an oxide layer formed over said substrate into a reactive chamber," "introducing an etching gas into said reactive chamber" and "generating a plasma of said etching gas at a first power level and contacting said oxide layer of said substrate with said first power level plasma for a first predetermined time." Independent claim 92 also recites "generating a plasma of said etching gas at a second power level in said reactive chamber and contacting said oxide layer of said substrate with said second power level plasma for a second predetermined time to etch said oxide layer, wherein said first and second power levels are different."

Claims 1-15, 17 and 19 of Application Serial No. 09/991,982 recite a "method for etching a substrate" by *inter alia* "providing a substrate having an oxide layer over a silicon layer, and an antireflective layer over said oxide layer," "forming a photoresist layer over said antireflective layer" and "patterning said photoresist layer in a manner which exposes portions of said antireflective layer." Claims 1-15, 17 and 19 of Application Serial No. 09/991,982 also recite "placing said substrate into a reactive chamber," "introducing into said chamber an etching gas," "generating a plasma of said etching gas at a first power level and contacting said photoresist layer of said substrate with said first power level plasma for a first predetermined time" and "generating a plasma of said etching gas at a second power level in said chamber and

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contacting said substrate with said second power level plasma for a second predetermined time to etch said exposed portions of said antireflective layer, wherein said first and second power levels are different.”

Applicants submit that the subject matter of claims 92-108 of the present invention is not identical to that of claims 1-15, 17 and 19 of Application Serial No. 09/991,982. See M.P.E.P. § 804; Miller v. Eagle Mfg. Co., 151 U.S. 186 (1984); In re Vogel, 422 F.2d 438 (CCP A1970). In fact, the subject matter of claims 92-108 of the present invention is broader than that of claims 1-15, 17 and 19 of Application Serial No. 09/991,982. For example, the claimed invention recites “placing a substrate having *an oxide layer formed over said substrate* into a reactive chamber” and “generating a plasma of said etching gas at a first power level and *contacting said oxide layer* of said substrate with said first power level plasma for a first predetermined time,” whereas claims 1-15, 17 and 19 of Application Serial No. 09/991,982 recite “providing a substrate having *an oxide layer over a silicon layer, and an antireflective layer over said oxide layer,*” “forming a *photoresist layer over said antireflective layer*” and “generating a plasma of said etching gas at a first power level and *contacting said photoresist layer* of said substrate with said first power level plasma for a first predetermined time” (emphasis added). For at least these reasons, the subject matter claimed by the present invention is not “same invention” as that of claims 1-15, 17 and 19 of Application Serial No. 09/991,982, and withdrawal of the statutory-type double patenting rejection is respectfully requested.

Claims 92-108 stand rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-20 of U.S. Patent No. 6,335,292 in view of Wang et al. (U.S. Patent No. 6,074,959) (“Wang”). Responsive to this rejection, Applicants’ undersigned representatives file concurrently a Terminal Disclaimer.

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In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

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Respectfully submitted,

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